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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,306	06/23/2003	Christopher Bangle	080437.52447US	7952

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EXAMINER

GUTMAN, HILARY L

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 09/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/601,306

Applicant(s)

BANGLE ET AL.

Examiner

Hilary Gutman

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-48 and 50-59 is/are pending in the application.
- 4a) Of the above claim(s) 4-6 and 28-48 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-12, 16-19, 21-27, 53 and 56-58 is/are allowed.
- 6) ☒ Claim(s) 1,3,7,8,50,51,54,55 and 59 is/are rejected.
- 7) ☒ Claim(s) 9,13-15,20 and 52 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 36-38 and 42 are objected to because of the following informalities:

In claim 36, line 3, "the" should be inserted before "at least".

In claim 37, line 4, "the" should be inserted before "longitudinal". Also on line 4, "the" should replace "an" before "adjusting element".

In claim 38, line 3, "the" should be inserted before "at least one". On line 3, "swiveling" should be deleted.

In claim 42, line 2, "a frame" should be "the frame".

Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

Art Unit: 3612

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1, 3, 7, 8, 50, 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corder in view of Dalbec.

Corder (5,106,145) discloses a section of a body of a vehicle comprising: a flexible material outer skin that is tensed at least over one part of a frame of the vehicle, has elastic properties, and is a flexible textile planar formation, and at least one mechanically moveable adjusting element, provided beneath or on an edge of the outer skin, enabling the outer skin to be deformed by moving in a direction which increases tension in the outer skin.

Corder lacks the material being coated with a coating at least on a visible side.

Dalbec (6,323,144) teaches a coating on a convertible fabric to provide improved acoustical and heat transfer properties.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a coating as taught by Dalbec on the material of Corder in order to improve acoustical and heat transfer properties of the convertible fabric.

With regard to claim 3, the flexible material outer skin can absorb impact energy during an accident.

With regard to claim 7, the at least one adjusting element can be moved in a translatable manner, a rotary manner, or both translatable and rotary manners.

With regard to claim 8, the adjusting element is moved by a powered actuator 38.

With regard to claim 50, the textile planar formation is a knitted fabric or other fabric.

Art Unit: 3612

5. Claims 1 and 54-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corder in view of Smith et al. (6,398,287).

Corder (5,106,145) discloses a section of a body of a vehicle comprising: a flexible material outer skin that is tensed at least over one part of a frame of the vehicle, has elastic properties, and is a flexible textile planar formation, and at least one mechanically moveable adjusting element, provided beneath or on an edge of the outer skin, enabling the outer skin to be deformed by moving in a direction which increases tension in the outer skin.

Corder lacks the material being coated with a coating at least on a visible side.

Smith et al. teach the desirability of coating fabric in order to protect the fabric from the elements and allow the fabric to be long lasting and aesthetically pleasing.

With regard to claim 54, the coating offers UV protection.

With regard to claim 55, the coating is inherently waterproof.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a coating as taught by Smith et al. upon the material of Corder in order to better protect the fabric and provide better aesthetics.

6. Claim 51 is rejected under 35 U.S.C. 103(a) as being unpatentable over Corder in view of Goodrich (5,016,936).

Corder (5,106,145) discloses a section of a body of a vehicle comprising: a flexible material outer skin that is tensed at least over one part of a frame of the vehicle, has elastic properties, and is a flexible textile planar formation, and at least one mechanically moveable

Art Unit: 3612

adjusting element, provided beneath or on an edge of the outer skin, enabling the outer skin to be deformed.

Corder lacks the textile planar formation including PES or PEN fibers.

Goodrich (5,016,936) teaches a textile planar formation for a motor vehicle top having in one embodiment (Figure 6) a metalized layer of Mylar or polyethylene teraphthalate.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a Mylar layer as taught by Goodrich for the material of the body section of Corder because polyethylene teraphthalate is well known in the prior art to have better adhesion and adhesion retention, a higher corrosion resistance, better resistance against ultra-violet (UV) light (and therefore better weatherability), and a lower absorption of water or moisture.

Allowable Subject Matter

7. The indicated allowability of claims 8, 10, 16-19, 21-27, 51-53, 56-58 is withdrawn in view of the newly discovered reference(s) to Corder, Dalbec, and Goodrich. Rejections based on the newly cited reference(s) are set forth above.

8. Claims 10-12, 16-19, 21-27, 53, 56-58 are allowed.

9. Claims 9, 13-15, 20, and 52 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

10. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

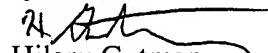
Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hilary Gutman whose telephone number is 703-305-0496.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 703-308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Hilary Gutman
September 12, 2005